UNITED
NATIONS

CCPR

International Covenant
on Civil and
Political Rights

Distr.
GENERAL

CCPR/C/SR.1121
25 March 1992

ORIGINAL: ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-fourth session

Summary record of the 1121st meeting

Held at Headquarters, New York,
on Monday, 23 March 1992, at 10.30 a.m.

Chairman: Mr. POCAR

CONTENTS

Opening of the session by the representative of the Secretary-General

Adoption of the agenda

Organizational and other matters

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.55 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

1. Mr. HOUSHMAND (Representative of the Secretary-General) said that, while a number of offices and departments had been discontinued as separate entities as a result of the Secretary-General's efforts to restructure and streamline the United Nations Secretariat, the Centre for Human Rights remained unaltered except for a change of head. Mr. Antoine Blanca, the former Director-General for Development and International Economic Cooperation, had been appointed successor to Mr. Jan Martenson, both as Director-General of the United Nations Office at Geneva and as Under-Secretary-General for Human Rights.

2. With the accession of Angola, Brazil, Estonia and Lithuania to the International Covenant on Civil and Political Rights, there were currently 102 States parties to the Covenant. In addition, Angola, Estonia, Lithuania and Poland had acceded to the Optional Protocol, bringing the total number of States parties to that instrument to 61.

3. The Secretariat had received the first of the "core" documents to be submitted by States parties pursuant to the consolidated guidelines for the initial part of the reports of States parties under the various human rights instruments. As provided for in the consolidated guidelines, such documents would eventually be distributed to each of the treaty bodies, together with the substantive report of the State party concerned, when future reports from that State party were to be considered. The documents would be updated periodically. The document in question had been submitted by Belgium and would be considered by the Committee at its current session together with Belgium's second periodic report.

4. On 16 September 1991, the General Assembly had held a solemn commemoration of the twenty-fifth anniversary of the International Covenants on Human Rights. The General Assembly had declared that acceptance of the Covenants had contributed greatly to the protection of human rights, and had urged all States to become parties to them.

5. The General Assembly had also reviewed the activities of the Human Rights Committee in 1991 on the basis of the Committee's annual report, as well as the effective implementation of international human rights instruments in general. The Third Committee had commended the Committee for the significant progress it had made in implementing human rights standards and for the activities it had undertaken in response to the situations in Iraq and Yugoslavia. The issue of emergency humanitarian intervention had also been considered, and several delegations had proposed that the Commission on Human Rights should consider establishing an emergency mechanism to enable the United Nations to react promptly to acute situations arising from gross violations of human rights, to intervene more quickly where lives were threatened and to improve coordination within the United Nations system. In that context, it had been suggested that representatives from human rights

treaty bodies could be sent on fact-finding missions to States parties whenever a serious and urgent situation appeared to justify such action.

6. Over the past several months, a number of significant steps had been taken to find a satisfactory solution to the financial problems of the Committee on the Elimination of Racial Discrimination. Australia had submitted a proposal to amend the relevant provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, the effect of which would be to ensure full funding of the activities of the Committee on the Elimination of Racial Discrimination from the United Nations regular budget. The recommendation had been adopted unanimously by the States parties to the Convention at their 14th meeting on 15 January 1992, and it remained for the General Assembly to adopt a formal amendment and for a two-thirds majority of the States parties to accept it. In the meantime, the forty-first session of that Committee had been cancelled because of a lack of sufficient funds. Australia had also proposed that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be similarly amended.

7. The Commission on Human Rights had once again expressed satisfaction with the Human Rights Committee's activities and had encouraged it to give priority to the preparation of a general comment on article 18 of the Covenant. In addition, the Commission had invited States parties to promote the dissemination at the national level of the reports they had submitted to the Committee and also of the summary records of the Committee relating to the examination of those reports. The Commission had endorsed the recommendation that the meetings of persons chairing human rights treaty bodies should be institutionalized, and had requested that the question of the extent of reservations to human rights instruments should be included in the agenda of the next such meeting in the autumn of 1992.

8. In its resolution 1992/59, which dealt with the problem of intimidation of, and reprisals against, private individuals and groups that sought to cooperate with representatives of United Nations human rights bodies, the Commission on Human Rights urged Governments to refrain from all acts of intimidation and reprisal and requested human rights treaty bodies to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures.

9. Another development of interest to the Committee had been the completion of the second reading of the draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities. The Commission on Human Rights had been able to approve the text of the draft declaration by consensus and had recommended it to the General Assembly, through the Economic and Social Council, for adoption and further action.

10. The Centre for Human Rights had recently organized several workshops or training courses with the valuable support of several members of the

(Mr. Houshmand)

Committee. Those activities included a training course on human rights standards and national legislation, held in October 1991 at Ulan Bator, Mongolia; a training course for law enforcement officials, held in December 1991 at Valletta, Malta; a seminar on human rights, democracy and economic and social development, held in December 1991 at Santiago, Chile; and an international human rights conference for the countries of the Conference on Security and Cooperation in Europe, held in January at Barcelona.

11. Preparations were also proceeding for the World Conference on Human Rights, which would be one of the most significant human rights events of the decade. The second session of the Preparatory Committee for the World Conference would take place at Geneva from 30 March to 10 April 1992 and would consider the adoption of the provisional agenda and draft rules of procedure for the Conference. As part of the preparatory process of the World Conference, the Secretary-General was organizing regional meetings for Latin America, Asia and Africa. Those meetings would focus on means of enhancing the implementation of human rights standards and instruments at the international, national and regional levels, bearing in mind the human rights aspects considered to be of particular concern to the respective regions. The final report of each regional preparatory meeting would be considered directly by the World Conference itself.

12. Since Germany had withdrawn its offer to host the World Conference on Human Rights at Berlin, the Preparatory Committee at its second session would consider Italy's invitation to host the World Conference in 1993, possibly at Venice, as well as a possible invitation from the Government of Austria to hold the Conference in 1993 at Vienna.

ADOPTION OF THE AGENDA (CCPR/C/77)

13. The CHAIRMAN drew the Committee's attention to the provisional agenda contained in document CCPR/C/77. Since Mr. Amos Wako had informed the Committee of his intention of resigning as Vice-Chairman, it would be necessary to hold an election to replace him. He therefore suggested that the provisional agenda should be amended to include a new item 2 entitled "Election of a Vice-Chairman"; the remaining agenda items would be renumbered accordingly.

14. The agenda, as orally revised, was adopted.

15. The CHAIRMAN said that the proposed programme of work took account of the postponement of the consideration of the initial report of the Republic of Korea, which would be considered at the Committee's next session in July 1992. The Niger had also requested a postponement of the consideration of its initial report, and the afternoons of 25 and 27 March could therefore be used for meetings of the working groups.

16. The programme of work was adopted.

17. Mr. AGUILAR, speaking as Chairman/Rapporteur of the Working Group on article 40, said that the members of the Working Group were Mr. Ando, Mr. Ndiaye, Mr. Wennergren and himself. The Working Group had considered a general comment on article 18, prepared by Mr. Dimitrijević, and a general comment on article 25, prepared by Mr. Müllerson. The Working Group had completed its discussion of the concluding observations of the Committee on reports of States parties, and had also considered the request made by the Government of Austria at the Committee's previous session regarding its reservations to article 14 of the Covenant.

18. The Working Group had had a fruitful discussion of Mr. Müllerson's general comment on article 25. Mr. Müllerson had later revised his general comment to include the observations made by members of the Working Group. The Working Group had discussed Mr. Dimitrijević's general comment on article 18 and had decided to request Mr. Dimitrijević to meet with the members of the Working Group to explain various aspects of his comment on which there had been some doubts. The Working Group had also asked Mr. Dimitrijević to include in his comment the observations made by the members of the Working Group.

19. With regard to the request of Austria, the Working Group had not been able to conclude its work because it did not have sufficient information to submit to the Committee. The Working Group wished to hold a meeting with Mr. Herndl in order to obtain additional information regarding the Austrian Code of Criminal Procedure.

20. With respect to the list of issues, only the list of issues for Belgium had been translated into all languages. The Working Group would consider the list of issues for Peru and Colombia in the afternoon; the list of issues for Yugoslavia would be ready on Thursday.

21. Mr. EL-SHAFEI, speaking as Chairman/Rapporteur of the Working Group on communications, said that the Working Group, which was composed of Mr. Mavrommatis, Mr. Müllerson, Mr. Prado Vallejo and himself, had held six meetings between 16 and 20 March. The Working Group had been able to examine all recommendations and decisions submitted to it by the Secretariat, and had adopted 10 views under article 5, paragraph 4, of the Optional Protocol, and recommended that 13 communications be declared inadmissible and 10 admissible.

22. The Working Group had also considered a Secretariat working paper concerning extradition under the Covenant. That issue would be considered on the basis of a conference room paper during the coming week. The Committee should also consider the implication of issuing decisions in that context under rule 86 of its rules of procedure.

23. The Working Group would need more time to consider five further draft decisions prepared by the Secretariat and to discuss the responses of States parties to requests for follow-up information made by the Special Rapporteur on follow-up.

(Mr. El-Shafei)

24. Since the Committee would have before it six draft recommendations submitted by the Special Rapporteur on New Communications, it was essential to allocate a sufficient number of meetings to consider all communications.

25. Mr. SADI recalled that at its previous session, the Committee had attached a high priority to finalizing the format of its concluding observations, and had decided that the item should be taken up at the beginning of the current session, so that the outcome could serve as a guideline for the Committee's subsequent work. He wondered how that decision could be reconciled with the proposed programme of work.

26. The CHAIRMAN said that he was aware of the matter to which the previous speaker had referred. Drawing attention to a document which was before the members of the Committee, entitled "Methods of work of the Committee under article 40 of the Covenant", he invited the Committee to begin consideration of the Working Group recommendations contained therein.

27. Mr. AGUILAR, introducing the report of the Working Group relating to the implementation of article 40, paragraph 4, of the Covenant, said that at its recent session, the Working Group had discussed modifications to the Committee's current methods of work, including the practice of having each member of the Committee make oral observations on State party reports. It had been suggested that the members of the Committee should draw up a list of observations to be submitted to a rapporteur, who would then prepare the final report. The Working Group had decided that the new method should be initiated at the current session, and that it should be applied to all reports, including initial reports.

28. The member of the Committee who was designated as rapporteur should begin to prepare a summary of the views of all members during the consideration of a State party report. Within 48 hours after the Committee had concluded its consideration of the report, the draft could be circulated, comments made thereon, and a final report prepared as soon as possible. Once the concluding observations had been discussed and adopted by the Committee, they would be transmitted to the State party as soon as possible.

29. Drawing attention to the sample observation attached to the report of the Working Group, he said that the first two sections - general evaluation and positive developments - were considered by the Working Group to be essential to any observation, while the last two sections - issues of particular concern and recommendations - were optional.

30. Mr. EL-SHAFEI expressed appreciation to the Working Group for its clear and precise recommendations. The choice facing the Committee was whether to adopt its concluding observations at the same session at which a State party report was presented or at a later session; he was in favour of the first option. Presenting the conclusions of the Committee as a whole would be more constructive than merely summarizing the views of individual members; while

(Mr. El-Shafei)

the former task would be time-consuming, it could perhaps be entrusted to the member of the Committee responsible for drawing up the list of questions on the report.

31. Mr. MAVROMMATIS said that he had some reservations with regard to the quality of the report to be adopted; he had been reading similar reports of other treaty bodies, which contained little of substance that did not merely repeat what was in the summary records. He recommended that the concluding observations should be based on notes taken during the final observation period and that the Committee should seek assistance from a senior member of the Secretariat in drafting the report.

32. Mr. SADI said that the Committee had a tradition of making gradual improvements in its methods of work. Whatever decision the Committee reached would require adjustments in the light of experience; nevertheless, it was important to make a start. It would be preferable for the concluding observations to be prepared during the session in which a particular report was presented, so that the information would be fresh in the minds of the members.

33. Mr. DIMITRIJEVIĆ said that he shared the doubts expressed by Mr. Mavrommatis with regard to the value of quick pronouncements. It was to be feared that on the last day of the session, when the Committee would be required to adopt concluding observations on the reports presented during the past week, the text would not be available in all of the working languages. Likewise, the last two days of the session might not be enough time for the discussion which was sure to ensue when the Committee was presented with the draft. Lacking summary records, the members of the Committee would be forced to rely on their memories, which would not be the same, so that the Committee might be drawn into a debate on each report. Accordingly, he supported the suggestion that assistance should be sought from the Secretariat, and recommended that the proposed procedure should be adopted on a provisional basis, with a view to assessing it at the next session in the light of experience. Furthermore, the Committee should have a reserve plan for dealing with those observations which could not be adopted at the current session owing to time constraints; perhaps they could be approved through correspondence and transmitted to States parties during the inter-sessional period.

34. Miss CHANET said she agreed with Mr. Sadi that the Committee should try out the proposed method at the current session and adjust it, if need be, at a later stage. What was innovative in the approach suggested by the Working Group was that, following its consideration of each State party report, the Committee would present its views collectively; that had been facilitated by the new world situation.

35. There were also some dangers to be avoided, namely, that the views of individual members would no longer be heard; however, that did not appear to be what the Working Group intended. The views of individual members should

(Miss Chanet)

continue to be expressed, but more concisely and in a manner conducive to a brief summary by the Rapporteur. In addition, the Committee should avoid choosing a method that was too cumbersome to produce rapid results. The Committee's concluding observations should be available by the end of the session. Lastly, she doubted the value of having a rapporteur for each country who would prepare both the list of questions and the concluding observations.

36. Mr. MÜLLERSON said he supported the suggestion that the Committee should seek assistance from the Secretariat. He also agreed with Mr. Dimitrijevic that the concluding observations on the final State party report of the session could not be prepared at that session; in his view, they should be postponed to the following session. With regard to the sample observation, he drew attention to paragraph 7, which implied that it was the view of the Committee that Austria had violated article 7 of the Covenant; he urged greater caution in the drafting of recommendations.

37. Mr. PRADO VALLEJO said that a significant shift seemed to have occurred in the opinions of Committee members, since in previous years, almost all had agreed that concluding observations should reflect the views of the Committee as a whole rather than those of individual members. Practically speaking, with the growing number of accessions to the Covenant and the consequent increase in the number of reports to be considered, the Committee might not have time at future sessions to reach consensus on concluding observations on all reports. The Committee could submit its observations provisionally at the current session for consideration by the Working Group, which would report to the next session, so that an improved final method could then be adopted.

38. Mr. HERNDL agreed that it might prove difficult to achieve consensus on concluding observations in every case. The procedure should be implemented on a trial basis and the results reviewed as soon as possible. The Committee would require additional help from the Secretariat in that connection. He wondered whether the Secretariat was equipped to provide such assistance at the current session without advance notice.

39. Introduction of the new procedure of including concluding observations on the reports of States parties should coincide with the Committee's yearly reporting cycle. Such concluding observations should reflect the collective view of the Commitee rather than those of individual members.

40. Mr. AGUILAR said that he did not favour delay in adopting the new procedure relating to concluding observations. It would be even more difficult to introduce the procedure at the next session, when the Committee would be preoccupied with the preparation of its annual report. The success of the new procedure would depend in part on the self-discipline of members, who would have to be prompt in providing written summaries of their main concerns with regard to the reports of States parties. A rapporteur should be appointed for each State party's report, preferably the same individual who had prepared the list of issues.

41. Mr. ANDO said that a rapporteur should be appointed for each report and members who wanted their comments to be included in the concluding observations must submit them in writing. The Committee should in future avoid taking up reports from States parties in the final days of a session. If the new procedure was to be adopted at the current session, he wondered how the Committee should deal in its annual report with the reports of States parties that had already been examined at the previous session.

42. The CHAIRMAN said that the concluding observations were intended chiefly for the benefit of States parties. He saw no difficulty in adopting the new procedure beginning with the current session. The Committee should take a pragmatic approach, following the new procedure on a trial basis, while remaining sensitive to the difficulties pointed out by members.

The meeting rose at 12.50 p.m.